IN THE HIGH COURT OF PUNJAB AND HARYRNA AT CHANDIGARH

C.O.C.P. No.870 of 2005
Date of Decision:- 9.10.2006

M/s Malwa Engineering Works & anr. ....Petitioners

through
Mr.C.S.Pasricha, Advocate.

vs.

Sita Ram & another ....Respondents

through
Mr.K.K.Gupta, Advocate.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT

***

SURYA KANT, J.

The petitioners filed C.W.P.No.11797 of 2005 in which an order whereby their contract was cancelled and they were debarred, was challenged. In the said writ petition an interim order dated 1.8.2005 was passed wherein it was directed that "if the petitioners make a request for supply of a tender form, the same shall be supplied to them as per rules. They shall also be allowed to take part in the tender. However, in case the petitioners succeeded to get the tender in their favour, the same shall be subject to the outcome of this writ petition." The tender was to be submitted and opened on 1.8.2005 itself.

Alleging that despite the aforesaid interim order, the tender forms were not supplied to them, the petitioners have filed this contempt petition.

In response to the show cause notice, separate affidavits have been filed by the first and second respondents. It is averred in the affidavit that as per the Clause Z-4 of the terms and conditions of the tender, it was

required that "the contractor will submit an affidavit along with the tender to the effect that their firm has not been black-listed/debarred by any committee, board or any authority on the date of submission of the tender." According to the respondents, since the petitioner had been debarred vide an order dated 26.7.2005 the operation of which was not stayed by this Court, he was ineligible to apply "as per rules". Consequently, the tender form was not issued to them.

After hearing learned counsel for the parties and having regard to the fact that in the interim order dated 1.8.2005 this Court had expressly incorporated that the tender form shall be supplied to the petitioners "as per rules" and in terms of Clause Z-4 of the terms and conditions of the tender form, the petitioners were ineligible, it cannot be said that the respondents are guilty of willful and deliberate non-compliance of the interim order dated 1.8.2005 passed by this Court.

Consequently, I do not find any merit in this contempt petition, which is accordingly dismissed.

Rule discharged.

October 09, 2006 **(SURYA KANT)**
poonam **JUDGE**